

## Office of Government Ethics

## § 2641.104

to section 207(c) and (d); (5) a change to section 207(j)(2)(B), an exception to section 207(c) and (d); (6) the addition of assignees under the Information Technology Exchange Program to the categories of “senior employee” for purposes of section 207(c); (7) the addition of section 207(l), applicable to former private sector assignees under the Information Technology Exchange Program; (8) a change to the length of the restriction set forth in section 207(d); and (9) the addition of a cross-reference in section 207(j)(1)(B) to a revised exception in the Indian Self-Determination and Education Assistance Act.

### § 2641.103 Enforcement and penalties.

(a) *Enforcement.* Criminal and civil enforcement of the provisions of 18 U.S.C. 207 is the responsibility of the Department of Justice. An agency is required to report to the Attorney General any information, complaints or allegations of possible criminal conduct in violation of title 18 of the United States Code, including possible violations of section 207 by former officers and employees. See 28 U.S.C. 535. When a possible violation of section 207 is referred to the Attorney General, the referring agency shall concurrently notify the Director of the Office of Government Ethics of the referral in accordance with 5 CFR 2638.603.

(b) *Penalties and injunctions.* 18 U.S.C. 216 provides for the imposition of one or more of the following penalties and injunctions for a violation of section 207:

(1) *Criminal penalties.* 18 U.S.C. 216(a) sets forth the maximum imprisonment terms for felony and misdemeanor violations of section 207. Section 216(a) also provides for the imposition of criminal fines for violations of section 207. For the amount of the criminal fines that may be imposed, see 18 U.S.C. 3571.

(2) *Civil penalties.* 18 U.S.C. 216(b) authorizes the Attorney General to take civil actions to impose civil penalties for violations of section 207 and sets forth the amounts of the civil fines.

(3) *Injunctive relief.* 18 U.S.C. 216(c) authorizes the Attorney General to seek an order from a United States District Court to prohibit a person from engaging in conduct which violates section 207.

(c) *Other relief.* In addition to any other remedies provided by law, the

United States may, pursuant to 18 U.S.C. 218, void or rescind contracts, transactions, and other obligations of the United States in the event of a final conviction pursuant to section 207, and recover the amount expended or the thing transferred or its reasonable value.

NOTE TO § 2641.103: A person or entity who aids, abets, counsels, commands, induces, or procures commission of a violation of section 207 is punishable as a principal under 18 U.S.C. 2.

### § 2641.104 Definitions.

For purposes of this part:

*Agency* means any department, independent establishment, commission, administration, authority, board or bureau of the United States or Government corporation. The term includes any independent agency not in the legislative or judicial branches.

*Agency ethics official* means the designated agency ethics official (DAEO) or the alternate DAEO, appointed in accordance with 5 CFR 2638.202(b), and any deputy ethics official described in 5 CFR 2638.204.

*Department* means one of the executive departments listed in 5 U.S.C. 101.

*Designated agency ethics official* (DAEO) means the official designated under 5 CFR 2638.201 to coordinate and manage an agency’s ethics program.

*Employee* means, for purposes of determining the individuals subject to 18 U.S.C. 207, any officer or employee of the executive branch or any independent agency that is not a part of the legislative or judicial branches. The term does not include the President or the Vice President, an enlisted member of the Armed Forces, or an officer or employee of the District of Columbia. The term includes an individual appointed as an employee or detailed to the Federal Government under the Intergovernmental Personnel Act (5 U.S.C. 3371–3376) or specifically subject to section 207 under the terms of another statute. It encompasses senior employees, very senior employees, special Government employees, and employees serving without compensation. (This term is redefined elsewhere in this part, as necessary, when the term is used for other purposes.)

*Executive branch* includes an executive department as defined in 5 U.S.C.